

DETAILED ACTION

1. Claims 4-57 remain pending. Claims 4-57 are allowed. Claims 1-3 are canceled. The Examiner is grateful for the effort put forth by Applicants to bring the application into condition for allowance.

EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a phone interview with Stuart B. Shapiro on 2/12/2010.

4. The application has been amended as follows:

Claims: See attachment to the action ("propclms"),

submitted by Applicants to the Examiner on 2/12/2010 via email.

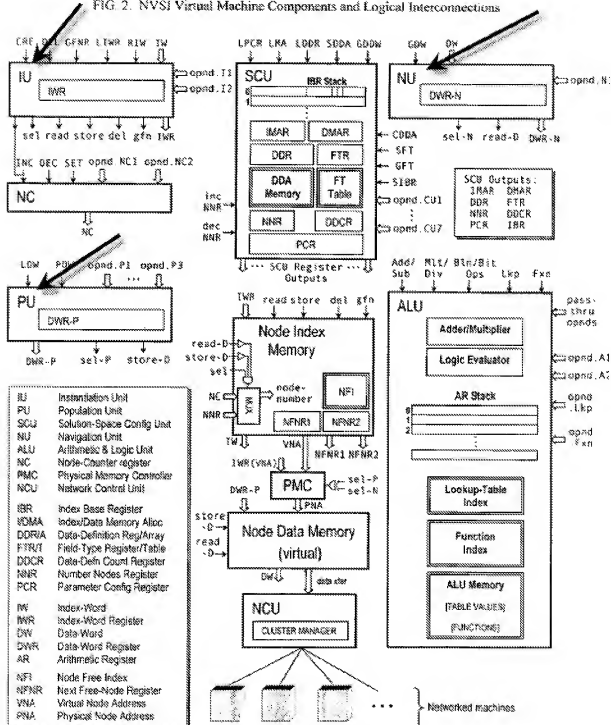
Allowable Subject Matter

5. Claims 4-57 are allowed.

6. The following is an examiner's statement of reasons for allowance:

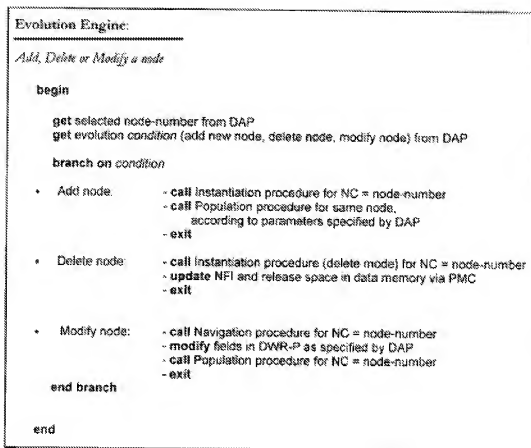
7. The claims are novel and non-obvious over the art of record. The claimed invention is disclosed in fig. 2 and includes the various 'engines' as disclosed in fig. 3-7. The top-level architecture is shown in fig. 2:

FIG. 2. NVSI Virtual Machine Components and Logical Interconnections



The 'evolution' engine, for example, is disclosed in fig. 7:

FIG. 7. Pseudocode representation of the action of the Evolution Engine.



The independent claims require the instantiation, population, navigation, configuration and evolutions 'engines', as defined in fig. 3-7 and corresponding text. See Applicants showing of support for these features in the responses of 6/2/2009 (pg. 17), 8/18/2009 (see "OA Appendix"), and in their remarks of 2/12/2010.

8. The basic idea of reconfigurable virtual machines is well known, including the examples cited in the rejections of 7/25/2007. However, said art (or similar art) does not

anticipate or reasonably suggest the specific sequence of steps/elements, and more particularly, the particular way in which they are carried out/arranged. Most importantly, this includes the instantiation, population, navigation, configuration and evolution 'engines' and their particular functionality as defined in fig. 3-7 and corresponding text.

9. The claims are thus novel and non-obvious over the prior art of record.

10. Process claims 34-51 were analyzed under 35 USC 101. It is recognized that, in order to be statutory, a process claim must be 1) tied to a particular machine or apparatus, or 2) it transforms a particular article into a different state or thing. *In re Bilski*, 88 USPQ2d 1385 (2008). It is also recognized that a general purpose computer may be converted into a particular computer through the operation of software on the computer. *In re Alappat*, 31 USPQ2d 1545 (1994). For the instant invention, it is clear that the process must be carried out via software operating on a computer. Independent claim 34 requires at least a computer processor (line 3). As such, the process is tied to a particular machine and meets the *Bilski* test.

11. The 112/101 rejections are withdrawn in view of the amendment and showing of support for the claimed features.

12. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hugh Jones whose telephone number is (571) 272-3781. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on (571) 272-2279. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hugh Jones/

Primary Examiner, Art Unit 2128